

The complaint

Miss W complains that Scottish Widows Limited failed to complete the transfer of her pension savings to another provider in a timely manner.

What happened

I issued a provisional decision on this complaint in August 2022. In that decision I explained why thought part of the complaint should be upheld and what Scottish Widows needed to do in order to put things right. Both parties have received a copy of the provisional decision but, for completeness and so those findings form part of this decision, I include some extracts from it below. In my decision I said;

Miss W held pension savings with Scottish Widows. She also appears to have held other pension savings in a self-invested personal pension with another provider that I will call H. In November 2020 Miss W asked H to request the transfer of her pension savings from Scottish Widows. A request for that transfer was submitted by H, to Scottish Widows, using the automated Origo Options system on 26 November.

I understand that Miss W had moved address earlier in 2020, but hadn't updated Scottish Widows with that change. So, when Scottish Widows checked the transfer request it had received, it noted that the information provided by H didn't match its records. So that caused Scottish Widows to implement a checking and validation process to ensure that the instruction it had received was genuine.

After receiving confirmation of Miss W's change of address Scottish Widows' checks were completed on 16 December. So it then restarted the processing of her transfer request. Scottish Widows has explained that it was facing some processing backlogs at that time so had amended its normal 10 working day SLA to 15 days. It says that the transfer was sent to H on 7 January 2021 in line with that expectation.

When it first looked at Miss W's complaint Scottish Widows told her that it didn't think it had completed the transfer as quickly as it should have. And it thought the information it had given her about the progress of the transfer had not been accurate. So it offered to pay her £200 for the inconvenience she'd been caused. Scottish Widows also offered to pay £48 for the cost of the phone calls Miss W had needed to make. And it later offered a further interest payment of £167.31 after tax for the delay. Miss W didn't accept those payments and brought her complaint to us.

Before we had been able to assess the complaint Scottish Widows reconsidered what had happened. Following that review Scottish Widows said that the delays to the transfer had been as a direct result of Miss W not updating her address. So it didn't think any compensatory interest should have been offered – although it did agree to honour its original offer, and also pay the compensation for the inconvenience and phone calls.

In its original response to Miss W, Scottish Widows agreed that it had not completed her transfer request as quickly as it should. But, later, it reviewed what had happened

and concluded that the delays were not its fault. It said the delays had been caused by a mismatch between the address the new provider, H, held and the address showing on Scottish Widows' systems. But Scottish Widows said that it would still honour the compensation it had previously offered to Miss W.

I've looked carefully at what happened with Miss W's transfer request, and I'm not persuaded that it was processed as quickly as it should have been. There was a period of more than a week before Scottish Widows noticed the difference in the addresses and asked for clarification from H. And there was another, although much shorter, delay whilst Scottish Widows updated its systems to reflect that it was now satisfied that Miss W's transfer request was valid. Scottish Widows says that it was working to an extended SLA at that time due to resourcing constraints. But that wasn't the fault of Miss W – and I think a maximum of 10 working days for the completion of the transfer, although allowing for a pause in the middle of that processing time for the address checks to be completed, would have been reasonable.

But since Scottish Widows has agreed it would honour the offer it made to Miss W when it originally accepted responsibility for the delay I don't think I need to explore that any further. Instead, as Miss W has herself suggested, my focus for the remainder of this decision should be on whether any delay has caused her to lose out, and if so whether the compensation that Scottish Widows has already offered is sufficient.

Miss W says that her intention when requesting the transfer was for her pension savings to be invested into some cryptocurrency assets. She says that there was very strong market sentiment that the price of those investments would rise rapidly over the following months. And Miss W has provided us with market data that shows that expectation was borne out – the value of those investments did indeed rise by a significant amount around that time.

But in October 2020 the regulator, the FCA, had announced that it would be imposing a ban on the sale of crypto assets to retail investors. It said that the ban would need to be implemented by investment platforms by 6 January 2021 at the latest. But, the FCA didn't require existing investments to be sold – it said those could be held indefinitely.

Miss W says she was aware of the forthcoming ban, and had held crypto assets in the past. So she says the impending ban, along with the expected rise in the value, was why she was pressing Scottish Widows to complete her transfer as soon as possible. But, as I've said earlier, the transfer of Miss W's pension savings wasn't completed by Scottish Widows until 7 January, and there was a further delay before those funds became available to invest on H's platform. So Miss W says she was prevented from making the intended investments in the crypto assets forever.

But I don't think, even if this transfer had completed as soon as it had been requested, that Miss W would have been able to make the investments that she is saying she intended. I am aware that Miss W's new provider, H, decided to introduce the FCA's ban on purchasing new crypto asset investments much earlier than 6 January – it introduced the ban for new investments on its platform on 29 October. That was four weeks before Miss W first told Scottish Widows that she wanted to transfer her pension savings. So I cannot agree that any delays on the transfer prevented Miss W from making crypto asset investments from her pension savings held with that provider.

H has told Scottish Widows that Miss W didn't invest her pension savings when the transfer completed. They were held in a cash fund. So Scottish Widows has offered to pay compensatory interest to Miss W at 8% - in line with what we would normally expect when a consumer has been denied the use of their money. Given there is no indication that Miss W would have changed how she used the transferred pension monies if they'd been sent earlier I think that method of compensation is reasonable.

The compensation that Scottish Widows has offered is based on the transfer being expected to be completed by 8 December – that is 8 working days after the request was received. I think that would have been an entirely reasonably processing period here, and even more so given the delays that were caused by the discrepancies in Miss W's address. So I think the compensatory interest that Scottish Widows has offered is fair.

I can see that Miss W spent a considerable amount of time in December 2020 chasing the progress of her transfer. The information she was given by Scottish Widows wasn't always accurate, and things didn't progress as she'd been led to expect. I have no doubts that would have been greatly upsetting for her and caused some inconvenience. And Miss W would also have likely incurred some costs for the telephone calls she needed to make. Scottish Widows has offered to pay Miss W £200 for her inconvenience, and a further £48 for the cost of her phone calls. I think that those offers are also reasonable in the circumstances here.

I appreciate that my decision will be disappointing for Miss W. She had seen what now appears to have been a highly beneficial investment opportunity. But I'm not currently persuaded that she would have been able to make use of that investment opportunity even if there had been no delays to her transfer – regardless of whether I conclude any delays were justified. I don't think things progressed with the transfer as smoothly as they might have, but I think that the compensation Scottish Widows has already offered is fair.

I invited both parties to provide us with any further comments or evidence in response to my provisional decision. Scottish Widows has said that it accepts my provisional findings. Miss W doesn't agree with my findings and has provided some additional comments. Although I am only summarising here what Miss W has said I want to reassure her that I have read, and carefully considered, her entire response.

Miss W has said that she doesn't understand why I think she wouldn't have been able to invest in the crypto assets if the transfer had been made on time. She says that while funds were held in a SIPP most platforms allowed consumers a free hand to invest them as they chose. And she says that, given the positive outlook for Bitcoin, it is most likely that is how she would have invested her transferred pension savings.

Miss W says that, when Scottish Widows should have completed the transfer, there was still almost a month before crypto assets were banned by the FCA. So in that time she says she could have legally, ethically, and willingly traded in that asset. And by closely monitoring the performance of her investment she could have secured her profits as soon as its price began to fall.

Miss W notes that Scottish Widows didn't complete the transfer until the day after the FCA ban on trading in crypto assets was introduced. She wonders if that timing was deliberate to prevent another British Citizen from being able to benefit from the increase in price of those assets. And Miss W says that the fact she didn't invest her transferred pension savings supports her testimony that the transfer had only been intended to allow an investment in crypto assets. Once that opportunity had been lost it is unsurprising that she didn't have an alternative investment lined up.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having thought carefully about what Miss W has said, I am sorry to tell her that her response hasn't caused me to alter the findings I set out in my provisional decision. I think that decision provided the answers to the further comments she has made. But I repeat some of those findings below to provide some further clarity.

Miss W is correct that, generally, a SIPP would allow a consumer to direct the investments that they wished to make with their pension savings. There were some regulatory restrictions (for example not being able to invest in residential property) but until 2021 those restrictions didn't preclude investments in crypto assets. Those investments were only prohibited by the FCA from 6 January 2021 onwards.

But in many cases the providers of a SIPP were also able to place their own restrictions on the investments that might be held in the SIPP that they offered. For example some providers only allow certain investment funds to be held.

Miss W asked Scottish Widows to transfer her pension savings to the SIPP that she held with the provider I have called H. And it is entirely correct that, in the lead up to the FCA announcement about its ban on crypto assets, H allowed investments of that nature to be held in the SIPPs that it administered. But that position changed on 29 October 2020.

At that time H decided that it would introduce, with immediate effect, the FCA ban on the purchase of crypto assets with the SIPPs that it administered. So, from that date, consumers who held their SIPP with H would not be able to purchase any new, or additional, crypto assets to be held within their SIPP. And so those restrictions would have also applied to Miss W.

Miss W didn't ask Scottish Widows to start the transfer of her pension savings until 26 November. That is around four weeks after H stopped the purchase of new crypto assets for its retail customers. And so, despite the FCA deadline not yet having passed, Miss W wouldn't have been able to purchase crypto assets via the SIPP that she held with H. That would have been the case even if the transfer had been completed on the same day that it had been requested.

So whilst I entirely agree that Scottish Widows didn't complete the transfer as quickly as it should have, I cannot agree that the delay prevented Miss W from investing in crypto assets via the SIPP that she held with H. And so I don't think that Scottish Widows needs to take account of any potential investment returns when considering the compensation that should be paid for the delay.

As I said in my provisional decision I understand how disappointing my decision is for Miss W. She had seen what now appears to have been a highly beneficial investment opportunity. But I'm not persuaded that she would have been able to make use of that investment opportunity via the SIPP she held with H even if there had been no delays to her transfer. I don't think things progressed with the transfer as smoothly as they might have, but I think that the compensation Scottish Widows has already offered is fair.

Putting things right

Scottish Widows has offered to pay compensation to Miss W, for her inconvenience, the cost of her telephone calls, and the loss of use of her pension savings. Scottish Widows should pay the compensation it has already offered to Miss W, as set out below;

- £200 for the inconvenience caused to Miss W by the incorrect information she was given on the progress of the transfer
- £48 for the cost of phone calls made by Miss W
- £209.14 compensatory interest (£167.31 net of income tax) for the delay to the transfer being completed.

My final decision

My final decision is that I uphold part of Miss W's complaint and direct Scottish Widows Limited to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 10 November 2022.

Paul Reilly
Ombudsman